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Annotation and the Changing Law

THE growth and development of the practice of annotating legal decisions when reporting them have been quite notable in the past thirty or forty years. Quite a list could be made of annotated reports that have appeared from time to time during the last half century or more. The annotations of such reports have varied much in their plan and execution. Some have attempted to do but little; others have been far more ambitious. Gradually this system has been developed to such an extent and excellence that the leading series of annotated reports have become a distinct class of law books, with which judges and lawyers are now as familiar as they are with the textbooks and encyclopedias.

A distinguishing characteristic of these reports to-day is the combination of the full report of the most important new decisions in every branch of the law, with the most thorough marshaling and review of all the authorities in all jurisdictions on the question annotated. The reported cases keep the profession informed as to whatever may be of chief interest among the current cases in both state and Federal courts, while on the distinguishing point decided in each case the annotations focus all the authorities and reasoning of the courts in all jurisdictions, from the earliest time to the present. Usually, these earlier authorities which are collected and reviewed in comparison with the reported case are fully in accord with it; but sometimes these annotations reveal a weight of authority that is inconsistent with the conclusion of the court in the reported case which is annotated, and in such instances the court which rendered the decision has sometimes demonstrated the value and conclusiveness of the annotation beyond cavil,

by proceeding to overrule its own decision as soon as opportunity was afforded in a subsequent case. Such instances have repeatedly happened. Even more striking proof of the soundness of the annotation and of its indisputable service to the public has been furnished, where a decision which was unfortunately out of harmony with sound principles was quite soon too readily followed in some other states; but after its unsoundness had been made evident by the annotation, which brought it to the test of comparison with a conclusive array of earlier authorities, its progress as a precedent ended, and thereafter it was repudiated not only in the state where it was rendered, but by the courts of other states which had at first followed it, but afterwards recognized that their decisions were unsound and overruled them.

Instances more or less similar have been numerous enough to show that in some law reports, at least, the annotations can be relied upon implicitly to present the existing law on live, litigated, and troublesome questions.

The law reports of this country have never before, even during the upheaval of civil war, revealed so many decisions of striking interest and importance as at this moment. Not only the Federal but the state courts are every day wrestling with great questions. These arise under new Federal constitutional amendments, and congressional war legislation of various kinds, as well as under many state laws, all together involving a multitude of problems affecting life, liberty, and property, shortage of foods, fuel, clothing, and housing, and almost every conceivable right, privilege, and interest of all classes of citizens. In ordinary times few of even the most important decisions handed down in the current reports awaken much interest except among lawyers, and interest them for their legal importance only. But in many of the cases of to-day legal interest is quickened and intensified by a human interest which everyone feels in cases that vitally affect himself and all other citizens, and not merely the litigants.

The remarkable array of cases now being handed down marks an epoch in which everything hitherto deemed established by the wisdom of our ancestors is being assailed and compelled to defend itself. A swirl of conflicting ideas on every conceivable subject is producing something like intellectual chaos in multitudes of minds in respect to all human relations, whether social or governmental. We may not forget that the highest advance ever made toward the establishment of justice and of the rights of men as against each other, and as against their government, has been made under the system of law and jurisprudence which this nation has inherited and carried forward. In the present situation it is of no

small importance to have each new decision on any of the vital matters of law and civilization calmly and patiently reviewed in an exhaustive compilation of all that has been established concerning it by the great decisions of the past. That is what the right kind of annotation undertakes to do, and it is needed now more than ever before.

Performance of Legal Services on Sunday

THE recent movement for a stricter observance of Sunday, and the widespread discussion which it has elicited, invest with timely interest the few decisions relating to the performance of legal services on the first day of the week.

There are some legal services that may be lawfully performed on Sunday. An indictment is not void because it was dated or returned on that day. In the absence of a statute, ministerial acts performed on Sunday or a holiday are said to be valid, such as the filing of a complaint or an application for writ of error. Although there are decisions to the contrary, a verdict is not generally regarded as a nullity by reason of its being received or recorded on the Lord's Day.

Sometimes the law expressly authorizes certain suits to be instituted on Sunday. In Markle v. Scott, 2 Tex. App. Civ. Cas. (Willson) 593, the validity of a contract made on Sunday (by an attorney, apparently), in relation to the commencement of an attachment suit, was upheld. The statute prohibited certain labor on Sunday and also provided that no suit should be brought on that day except an attachment suit. The court held that there was no law which made a contract illegal and void, or even voidable, merely because made on Sunday, when such contract was in regard to a matter not made unlawful by statute.

Statutes prohibiting work on Sunday usually except "works of necessity or charity." It is probable that certain legal services would come within the meaning of this phrase. The authorities seem to agree that it is lawful to take a bond on Sunday admitting a prisoner to bail, it being declared that such an act is in the nature of a work of charity. But in the recent Mississippi case of Jones v. Brantley, 83 So. 802, 8 A.L.R. 1353, the services consisted in a

conference held at the attorney's office on Sunday, with a member of a firm, as to a rearranging or adjusting of the partnership business. At this meeting the business was discussed and some writing done with reference thereto. These services were held not "a work of necessity or charity."

In Rapp v. Reehling, 124 Ind. 36, 23 N. E. 777, 7 L.R.A. 498, it was held that an attorney who drafted and supervised the execution of a will on Sunday did not violate a statute forbidding "common labor" or work in one's "usual avocation" on that day, although there were no unusual circumstances existing which made the immediate preparation and signing of the instrument a necessity. A fortiori, the preparation of a will on Sunday for one nearing death would seem to be not only permissible, but a moral duty.

But it has been held that an attorney's clerk employed at a weekly salary cannot recover extra compensation from his employer for services rendered on Sunday in the line of his ordinary work, and in violation of the prohibition of the statute against working on Sunday, there being no ground for saying that the case is within the exception of works of necessity or charity, and there being no pretense that the parties kept the last day of the week. Watts v. Van Ness, 1 Hill, 76.

No general definition of the phrase "works of necessity or charity" is possible. The question whether any specific act of labor or service is within its meaning must be determined, as stated in 25 R. C. L. 1421, by "the particular circumstances of each case, having regard also to the changing conditions of civilization. In general, it may be stated that although by the word 'necessity' is not meant a physical and absolute necessity, it does mean something more than is merely needful and desirable, and generally involves considerations of moral fitness and propriety. There must, at least, be a moral emergency which will not reasonably admit of delay, but is so pressing in its nature as to rescue the act done from the imputation of a wilful desecration of a day made sacred for certain purposes in morals as well as in law. And, generally speaking, it ought to be an unforeseen necessity, or, if foreseen, such as could not reasonably have been provided against. As to the word 'charity' it has been held that it must include everything which proceeds from a sense of the moral duty, or a feeling of kindness and humanity, and is intended wholly for the purpose of the relief or comfort of another, and not for one's own benefit or pleasure."

It is said that William M. Evarts, during the impeachment trial of President Johnson, for whom he was counsel, devoted seven days a week to the case, and excused him-

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Hypnotic Crime

PICTURE an eminent European alienist peacefully pursuing his occupation in his office. A young girl enters, points a revolver at him, and pulls the trigger. No explosion follows, since the weapon contains only a paper cartridge. The girl is taken to police headquarters. A man appears and claims that the girl acted at his suggestion, after being hypnotized. The object of the demonstration was to convince the learned alienist of his error in denying the possibility of using hypnotism to instigate crime. Such are the facts stated in a recent cable despatch to the Philadelphia Public Ledger.

This experiment does not appear to have been made under scientific test conditions, and its value is conjectural. But it may serve to recall the controversy of a quarter of a century ago, upon the question whether hypnotism can be used as an agent in procuring the commission of crime. The conclusion then arrived at by the weight of opinion was that it remained to be proved that an innocent person could be influenced by the hypnotic suggestion of another to commit crime; that a hypnotized person would only obey those acts commanded which did not antagonize his moral standard, otherwise he resists and renders the suggestion unavailing; that hypnotism should not be recognized by the courts as a legal defense; that it has no place in criminal jurisprudence except possibly as a fact of extenuation, or a mere mitigating circumstance, according to the degree of dominion exercised over the subject. A valuable discussion of the question may be found in a note in 40 L.R.A. 271.

"As yet, few instances are known where hypnotism has been employed to induce the commission of crime, and these, moreover, are not very well authenticated," states Baron Garofalo in his treatise on Criminology. "Should, however, the art of hypnotism become a matter of more general knowledge, and be taken advantage of by criminals, there would be need of a definite rule. In that event, it is plain, under any sort of theory, that the hypnotizer would be properly punishable as the real author of the crime, while the person hypnotized could only be regarded as the passive instrument,—guilty, perhaps, of an involuntary offense for having imprudently subjected himself to the hypnotic influence, but of nothing more."

"Service Through Annotation"

A Tragedy of Art

HE hasty action of a British peer in mutilating his own portrait by a famous British artist, and the resulting litigation, have led to much comment in both the European and American press.

The grounds of the controversy are outlined in the Boston Transcript as follows:

"Lord Leverhulme employed Mr. John to paint his portrait, the consideration, it is reported, being 1,000 guineas. When his lordship received the portrait, it was, he says, too large for the place on his wall which he intended it should occupy, and he took a pair of scissors and cut out the head and a piece of the body, leaving the lower arms and hands and body on the destroyed canvas. By accident Lord Leverhulme's housekeeper packed up the unwanted remains and shipped them back to Mr. John. Mr. John's palette was at once covered with the colors of indignation, amazement, and protest. Lord Leverhulme wrote back with the soft answer intended to turn away wrath, and invited the artist to come and dine with him. Mr. John refused, and has invoked the courts to put him right in the pages of history. The British public has been vastly amused, and has debated the matter with the same pertinacity as the plaintiff and defendant. Lord Leverhulme's case is: 'Have I not bought the picture? Shall I not do what I like with my own?' In this he has all the legal right. The moral right is on the side of the painter, in the minds of a great many. Mr. John's view is that there is something in a work of art which, in the higher equity, as distinct from law, you cannot buy. The point taken by Mr. John's admirers is this: 'Suppose this is Mr. John's masterpiece, the work on which the exact measure of his fame a hundred years hence will most depend. Whatever the law may allow, or courts award, the common fairness of mankind cannot assent to the doctrine that one man may rightfully use his own rights of property in such a way as to silence or interrupt another in making so critical an appeal to posterity for the recognition of his genius. These canvasses, in which a rare mind has lodged so much of itself, may be sold, but they should not be sold into utter servitude; they ought in their new ownership to enjoy undiminished their right to express the force that gave them birth; and in taking legal ownership of works of art a man should put it straight to himself that he is accepting the position of guardian in some measure, to another man's reputation.'"

We shall await with interest the decision of the English courts on the novel proposition whether, under "higher equity," the purchaser of a work of art becomes a trustee of the artist's reputation.

The law, however, will in many particulars guard the professional reputation of an artist or man of letters. Thus, an author who has sold the copyright of his book is entitled to recover damages from the purchaser, if he publish a new edition containing many mistakes made by an editor, and which one who bought the book would under-

stand to be the work of the author. Archbold v. Sweet, 5 Car. & P. 219, 1 Moody & R. 62.

And the publication of poems as the work of a noted poet will be enjoined, when it appears highly probable that the work is not his. Byron v. Johnston, 2 Meriv. 29, 35 Eng. Reprint, 851, 16 Revised Rep. 135.

An author of acquired reputation, and perhaps a person who has not obtained any standing before the public as a writer, may restrain another from the publication of literary matter purporting to have been written by him, but which, in fact, was never so written. Any other rule would permit writers of inferior merit to put their compositions before the public under the names of writers of high standing and authority, thereby perpetrating a fraud, not only on the writer whose name is used, but also on the public. Clemens v. Belford, 11 Biss. 459, 14 Fed. 728.

A painting may be a wretched daub—a statue a lamentable abortion; yet should either be purloined by an enemy with the view to secure profits to himself, or to disgrace the artist by its public exhibition, a court of equity would renounce its principles should it refuse to protect the owner, the unfortunate artist, by a peremptory injunction. Woolsey v. Judd, 4 Duer, 379, 11 How. Pr. 49.

But works of art are not immune from criticism. "Any man has a right," observes Lord Tenterden,

in Soane v. Knight, Moody & M. 74, "to express his opinion of them; and however mistaken in point of taste that opinion may be, or however unfavorable to the merits of the author or artist, the person entertaining it is not precluded by law from its fair, reasonable, and temperate expression, although through the medium of ridicule. If it is unfair and intemperate, and written for the purpose of injuring the artist in his profession, it is actionable."

In respect to an alleged libel by newspaper criticism of the portrait of the King, calling it a mere daub and using very strong terms of censure, the court, in summing up to the jury, said the question is whether the publication is a fair and temperate criticism on the painting, or whether it be made the vehicle of personal malignity towards the plaintiff, who was the painter, adding: "If this be really an honest criticism, the defendant is entitled to the verdict." Thomson v. Shackell, Moody & M. 187, 31 Revised Rep. 728.

As to rights at common law in intellectual productions, see notes in 9 L.R.A.(N.S.) 174; 43 L.R.A. (N.S.) 639.

Riding the Goat

AN action was recently before the courts in which the plaintiff sought damages for injuries received while being initiated into a secret society. It seems that a hot branding iron was held over the face of the candidate while he was restfully reposing in a coffin. The iron was so hot that the person holding it, dropped it, and it descended on the face of the candidate and disfigured his nose.

Comparatively little authority seems to exist on the question of the liability of a benevolent or fraternal society for injuries received by a candidate, in the performance of those ceremonies which generally accompany his initiation or expulsion. Notes on the subject may be found in 13 L.R.A. (N.S.) 314, and L.R.A.1917C, 476.

In the reported cases candidates have complained of rough usage, of horseplay, of injury by being thrown unnecessarily to the floor, of injury due to forcibly bending the body backward, of being tripped by a saber, of the use of a mechanical goat, of being shocked with a current of electricity, and of attempted suspension from the wall by means of a cord placed about the waist.

Verily, he who would pass behind the veil of our modern mysteries appears to enter upon an arduous adventure.

"Service Through Annotation"

The Legal Status of the Lead Pencil

A SIGNATURE to a lease in lead pencil is held sufficient in the Missouri case of Kleine v. Kleine, 219 S. W. 610, and the court in its opinion refers to the "erroneous view, entertained by many laymen, that a deed cannot be signed with a lead pencil, but must be signed with pen and ink." In the note which accompanies this decision in 8 A.L.R. 1339, it is stated that, so far as transactions of private business are concerned, the fact that the signature to an instrument was made with a lead pencil will not affect its validity.

The reasons which have induced the courts to approve or at least tolerate the use of a lead pencil in business transactions have been detailed in the course of their decisions. It is said in Stone v. Sprague, 24 N. H. 309, that "the law extends great indulgence to looseness and inaccuracy in writings necessary to the transaction of the common business of life, propter simplicitatem laicorum. Otherwise the fair intention of the parties would frequently be defeated by their want of acquaintance with the forms of business, and by the haste in which such writings are often necessarily drawn and executed, at times and in places when and where the means of making them in the best manner and with the best materials are not at hand."

The subject is discussed at length in Clason v. Bailey, 14 Johns. 484, where it is observed: "To write is to express our ideas by letters visible to the eye. The mode or manner of impressing those letters is no part of the substance or definition of writing. A pencil is an instrument with which we write without ink. The ancients understood alphabetic writing as well as we do, but it is certain that the use of paper, pen, and ink was for a long time unknown to them. In the days of Job, they wrote upon lead with an iron pen.

"The ancients used to write upon hard substances, as stones, metals, ivory, wood, etc., with a style or iron instrument. The next improvement was writing upon waxed tables; until at last paper and parchment were adopted, when the use of the calamus or reed was introduced. The common law has gone so far to regulate writing as to make it necessary that a deed should be written on paper or parchment, and not on wood or stone. This was for the sake of durability and safety; and this is all the regulation that the law has

prescribed. The instrument or the material by which the letters were to be impressed on paper or parchment has never yet been defined; this has been left to be governed by public convenience and usage; and as far as questions have arisen on this subject, the courts have, with great latitude and liberality, left the parties to their own discretion. . . . A lead pencil is generally the most accessible and convenient instrument of writing on such occasions, and I see no good reason why we should wish to put an interdict on all memoranda written with a pencil. I am persuaded it would be attended with much inconvenience and afford more opportunities and temptation to parties to break faith with each other than by allowing the writing with a pencil to stand. It is no doubt very much in use."

"However," comments the court in Myers v. Vanderbelt, 84 Pa. 510, 24 Am. Rep. 227, "no prudent scrivener will write a will in pencil unless under extreme circumstances. Whenever so written, any appearance of alteration should be carefully scrutinized. Yet, inasmuch as the statute is silent on the question, we cannot say that the mere fact that it is written or signed in pencil thereby makes it invalid. It is nevertheless a writing known and acknowledged as such by the authorities and fulfils the requirements of the statute."

But it should be noted that, in the case of a signature required by law to be made by a public officer, signatures with lead pencil have generally been held to be insufficient.

Phonographic Wills

THE idea of making one's will on a phonographic record seems to be spreading. In addition to the instance noted in the August-October 1920 Case and Comment, p. 138, the press records that Mr. E. H. Reynolds of Chicago has dictated his will to a phonograph. Attorney James E. Callahan, who acted as one of the witnesses, is reported to have said:

"The voice is mightier than the pen.

"The judge before whom a phonographic will is offered for probate can tell whether the testator was strong or weak from the tone of his voice, as reproduced by the record. He can also judge whether the testator was of sound and disposing mind, from the fluency or lack of fluency evidenced by the record.

"The Illinois statute, which provides for a written will, should be modernized."

The opinion has been expressed that it would be much more difficult to "tamper" with a spoken will than a written one, but Judge T. J. Moll, of Indianapolis, favors us with the comment: "'When there's a will, there's a way' to break it. In this case, just drop the subject on a tiled floor."

This would doubtless place a phonographic testament in the category of "lost wills."

"Service Through Annotation"

Legal Movies

RECENTLY, on the trial of an action for divorce, a witness testified that she had seen the wife, who was defendant, "make funny eyes" at the corespondent.

"Now show the jury just how she made those eyes," directed the court.

The witness tossed her head in a coquettish way, puckered her lips, and made loving eyes at the jury. The court asked her to show him personally, and she went through the same performance. Evidently the act fell short of histrionic standards. "I think that is making faces," commented the judge.

There seem to be but few cases in which the right to give testimony by gesture or physical demonstration has been passed upon. Such matters rest largely in the discretion of the trial court, and will not be interfered with, in the absence of an abuse of such discretion.

The court may properly permit a prosecutrix, who has been rendered unable to talk by reason of violence, to indicate affirmative or negative answers by a nod or shake of the head. Roberson v. State, — Tex. Crim. Rep. —, 49 S. W. 398.

It is said in People v. Chin Hane, 108 Cal. 597, 41 Pac. 697, to be a common practice to illustrate upon the wall or upon a door in a court room, before the eyes of the jury, the location of a bullet mark. And the trial court may permit a witness for the state in a homicide case to illustrate to the jury the location of the wounds upon the deceased, by pointing to corresponding portions of his own body. State v. McGann, 8 Idaho, 40, 66 Pac. 823. But to permit witnesses to indicate the position of a child at the time he was injured, by reference to objects in the court room, is said not to be a commendable practice, in Rachmel v. Clark, 205 Pa. 314, 54 Atl. 1027, 14 Am. Neg. Rep. 208, 62 L.R.A. 959, because it deprived the appellate court of the possession of data necessary to a full understanding of the facts. And the act of an attorney in walking across the floor between a witness and the jury, and asking the former whether the deceased at the time of the homicide walked as fast as he when approaching the accused, is disapproved, as an improper method of proving such fact, in Linehan v. State, 113 Ala. 70, 21 So. 497.

It is intimated in State v. Wilson, 66 Kan. 472, 71 Pac. 849, 14 Am. Crim. Rep. 135, that a crowbar, wrench, and brace, if properly identified as used in connection

with a burglary, may be employed by way of explanation and illustration before the jury. And a mask, lantern, and other implements may be used to enable witnesses to describe and illustrate the appearance of the burglar, at the time of the commission of the burglary for which the defendant is on trial. State v. Ellwood, 17 R. I. 763, 24 Atl. 782.

A defendant in a murder case, who, on his own behalf, had made ocular demonstration with his hands and arms as to how the deceased, sitting with him at a card table, had first struck him with a crutch and then threatened him with a knife, may properly be asked, on cross-examination, to sit at a table and demonstrate how the crutch was used, where the knife was lying, how it was seized by deceased, where those present were sitting, and the position of deceased when he received the fatal shot. State v. Hunter, 82 S. C. 153, 63 S. E. 685. The programme thus outlined for the witness reads like a legal scenario. It transforms the court room momentarily into the land of the silver screen.

Wanted to Start Even

Representative Little, in the course of remarks made in the House of Representatives, related this interesting incident concerning the revival of law and order along the Scottish border:

"Three hundred years ago on the border between England and Scotland, they fought all the time and drove off cattle. The King of Scotland sent down word: 'We are going to hold court in Dumfries, and everybody must come before that court.' John Little said: 'That is fine; that is just the way to do it; but I have an affair I must first adjust with the Johnston clan; they killed my cousin, and drove off my cows, and we will even up, and then go to law in the future.' And before they held court he got his cows, killed a Johnston, burned a house, and 'harried a hirsel.' 'Now,' he said, 'let law and order reign; I am willing to go to court after this.'

"Of course, he was wrong, and possibly ought to have been hung, although they never did get to hang him."

Bathtubs and Progress

IT seems that the bathtub may be a measure of civilization and progress. In the classical days of Greco-Roman grandeur, bathing was a fine art, and its rites were performed amid luxurious surroundings. But when the world reeled backward into the chaos of the Dark Ages, the refinements of the bath, with its perfumes and anointings, passed out of vogue. Pious hermits, devoted to mystic contemplation, gave slight care to the perishable body. The rabble has been cynically said to have been distinguished by its fear of learning, perdition, and the bathtub. Cleanliness and sanitation received scant recognition from either public or private persons. The world was ravaged by plague and pestilence.

Finally, inspired by the discoveries of science, governments began to promulgate and enforce sanitary regulations. As stated in 12 R. C. L. 1264: "The health of the people has long been recognized as an economic asset and a social blessing. It was a subject of ancient literature and philosophy, and never, perhaps, has civilized man been oblivious to its importance. Yet it has remained for our own times, which might be styled the age of conservation, to take practical cognizance of the matter. As our population has increased and our civilization has become more complex, there has been a steady tendency toward a code of rules to guard against illness, disease, and pestilence. Health officers and boards have been appointed for the purpose of devising and enforcing sanitary measures, and there has been much litigation in respect of particular matters affecting health."

"The first bathtub in the United States," records a writer in the Omaha Bee, "was built in Cincinnati, and installed in a home there in 1842. It was made of mahogany, lined with sheet lead, and was proudly exhibited by its owner at a Christmas party. Next day it was denounced in the Cincinnati papers as a luxurious, undemocratic vanity. Then came the medical men and declared it a menace to health. In 1843, Philadelphia tried to prohibit bathing between November 1 and March 15, by ordinance. In 1845, Boston made bathing unlawful except when prescribed by a physician. Virginia taxed bathtubs $30 a year. President Fillmore installed the first one ever in the White House.

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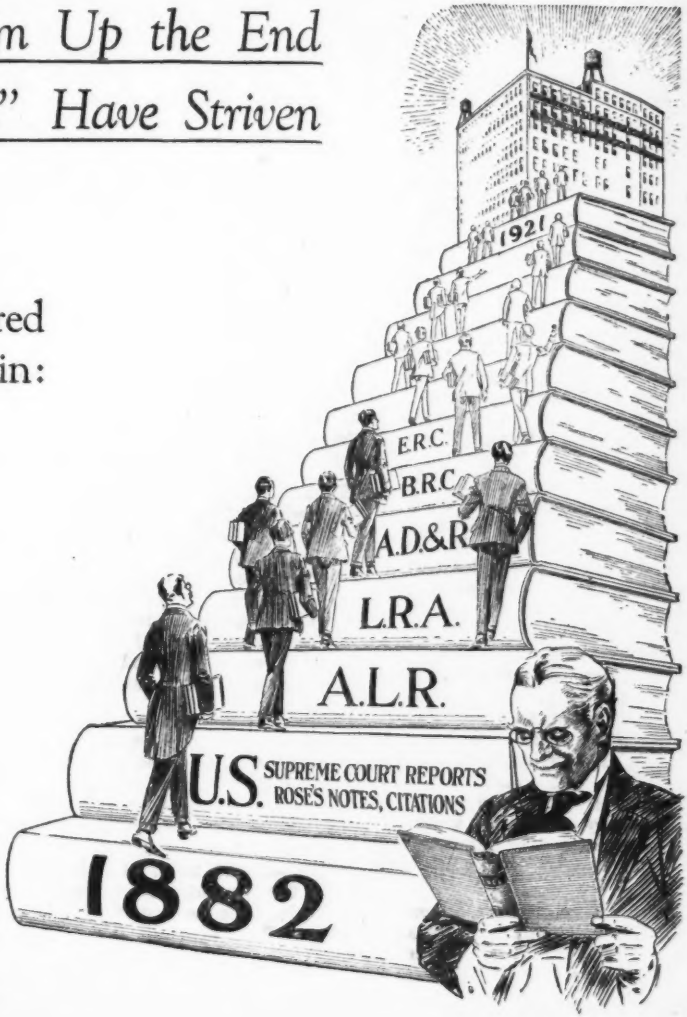

Recent Important Cases

Accretions — *rights of owner of land becoming riparian.* If lands become riparian by the washing away of adjoining lands, the owner is held to be entitled to the right of a riparian owner to accretions, even though they extend beyond the original boundary line of his land, in the Nebraska case of Yearsley v. Gipple, 175 N. W. 641, accompanied in 8 A.L.R. 636, by a note on the right to follow accretions across a division line previously submerged by the action of the water.

Army — *Moratorium Act — duty to vacate judgment.* Upon a motion made to vacate a judgment non obstante rendered in accordance with a mandate from the appellate court, upon the ground that, at the time of the rendition thereof, the appellant was in the active military service of the Federal government, and it so appearing upon the hearing of such motion, it is held in the North Dakota case of Thress v. Zemple, 174 N. W. 85, to have been the express duty of the trial court, pursuant to chapter 10 of the Special Session Laws N. D. 1918 (the Moratorium Act), to vacate such judgment and not to take any further proceedings in such action during the time our government is engaged in the present war and for an additional period of one year, except pursuant to the provisions of said Moratorium Act. The validity and construction of war legislation in the nature of a moratory statute are treated in the note appended to this case in 9 A.L.R. 1.

Assault — *pistol as deadly weapon — bludgeon.* That a pistol used as a bludgeon is not a deadly weapon per se is held in the Texas case of Hilliard v. State, — Tex. Crim. Rep. —, 218 S. W. 1052, annotated in 8 A.L.R. 1316.

Bail — *right of one charged with murder.* Murder in the first degree not being punishable capitally, persons charged with that offense are held to be bailable, in Ex parte Ball, 106 Kan. 536, 188 Pac. 424, under the self-executing provision of the Bill of Rights that all persons shall be bailable by sufficient sureties, except for capital offenses where proof is evident or the presumption great, notwithstanding the Statute of 1911, which provides that persons charged with the crime of murder in the first degree shall not be admitted to bail when the proof is evident or the presumption great.

Abolition of the death penalty, as affecting the right to bail of one charged with murder in the first degree, is treated in the note appended to this case in 8 A.L.R. 1348.

Bankruptcy — *claims of nonresident creditor.* The claims of a creditor residing out of the United States, when properly scheduled, are held to be included, so far as proceedings in this country are concerned, in a discharge in proceedings instituted under the Bankruptcy Act of 1898, in the New Hampshire case of Morency v. Landry, 108 Atl. 855, annotated in 9 A.L.R. 123.

Bills and notes — *failure to apply deposit account upon note — effect on accommodation maker.* Failure of a bank holding a demand note signed by an accommodation maker to apply the deposit account of the maker primarily liable, upon the note, is held not to release the accommodation maker, in the Washington case of Bank of California v. Starrett, 188 Pac. 410, annotated in 9 A.L.R. 177.

Carrier — *injury by cinder — leaving door open — train in tunnel.* That a carrier is liable for injury to

the eye of a passenger, due to a cinder entering the car where a brakeman, contrary to rules, left the door of the car open when the train was passing through a tunnel, is held in the Kentucky case of Louisville & N. R. Co. v. Roberts, 218 S. W. 713, annotated in 9 A.L.R. 94, on the duty of the carrier to a passenger while the train is going through a tunnel.

Carrier — *misleading passenger — liability.* Where a passenger sustains damages by reason of misinformation as to the time of the departure of trains, given by a carrier's employees, the carrier is held liable for the actual damages sustained by the passenger, proximately caused by reason of the misinformation, in the North Dakota case of Weeks v. Great Northern R. Co. 175 N. W. 726, annotated in 8 A.L.R. 1178.

Carrier — *pass — public officer — policy.* That it is against the public policy and the law of the state for public officers to accept or receive free passes, or discriminatory rates, from passenger, telegraph, and telephone companies, is held in Coco v. Oden, 143 La. 718, 79 So. 287, annotated in 8 A.L.R. 679.

Constitutional law — *Sunday labor — discrimination against barber.* That an act imposes upon barbers a more severe penalty for working at their trade on Sunday, than that imposed by the General Sunday Act on other common laborers, is held not to render it unconstitutional as discriminative class legislation, in the Nebraska case of State v. Murray, 175 N. W. 666, annotated in 8 A.L.R. 563, on the constitutionality of discrimination as regards the degree of penalty or punishment for a violation of the Sunday law.

Contract — *to pay debt of corporation.* A parol promise of a stockholder to pay the debt of the corporation is held to be unenforceable under the Statute of Frauds, in Richardson Press v. Albright, 224 N. Y. 497, 121 N. E. 362, annotated in 8 A.L.R. 1195, on the validity of an oral promise by a stockholder to pay the debt of a corporation.

Corporations — *acting under changed name — effect.* Failure legally to effect a change of corporate name is held, in the Illinois case of Pilsen Brewing Co. v. Wallace, 125 N. E. 714, not to render the officers acting under the new name liable for the corporate debts as partners, under a statute providing that all assuming to act as a corporation without complying with the provisions of the act before all stock named in the articles of incorporation shall be subscribed in good faith shall be so liable.

The personal liability of officers or stockholders for the debts of a corporation which has made an unauthorized change in its name is discussed in the note appended to this decision in 8 A.L.R. 579.

Divorce — *alimony — estate of wife in land awarded her.* Where the wife is granted a divorce on account of the aggression of the husband, and awarded the exclusive custody of their minor child, and the court awarded to the wife as permanent alimony the undivided one-half interest of the husband in a tract of land owned by them jointly, for the support of herself and the minor child, it is held in the Oklahoma case of Seward v. Johnson, 186 Pac. 212, that the wife took all the title of the husband in and to said land, and that her deed to the same, made to the plaintiffs after said decree became final, conveyed the land to the plaintiffs free from all claims of said minor child for support and maintenance.

The right of a wife to dispose of property awarded to her as support for herself and child is discussed in the note which follows this case in 8 A.L.R. 645.

Eminent domain — *creation of restricted residence district.* A statute which enables 50 per cent of the inhabitants of a city district to have it restricted so that apartment houses and other designated classes of buildings shall be prohibited therein, the right to build such buildings to be condemned by the city, is held constitutional in the Minnesota case of State ex rel. Twin City Bldg. & Invest. Co. v. Houghton, 176 N. W. 159, annotated in 8 A.L.R. 585, on the power to condemn against a particular use of property.

Eminent domain — *sufficiency of effort to agree.* Sufficient effort to agree with the property owner as to compensation to be awarded for property sought by a public service corporation, to warrant the institution of condemnation proceedings, is held to be effected by making in writing a cash offer for an acreage rate, to which no reply is made, in Public Service Co. v. Recktenwald, 290 Ill. 314, 125 N. E. 271, annotated in 8 A.L.R. 466.

Evidence — *admission of counsel.* The production in evidence before a jury of an admission, outside of court, by counsel for defendants that in his opinion, unless a certain fact could be shown, his clients would be convicted, is held inadmissible and highly prejudicial, and to require a reversal, in the New Mexico case of State v. Edins, 187 Pac. 545, which is accompanied in 8 A.L.R. 1331, by a note on the admissibility of statements by an attorney out of court as to the probability of a verdict or decision adverse to his client.

Evidence — *declarations to show insanity.* Declarations of one accused of crime are held to be admissible in evidence at the trial, not only to show insanity, but also weakness of the mental faculties, in State v. Cooper, 170 N. C. 719, 87 S. E. 50, which is accompanied in 8 A.L.R. 1214, by a note on evidence of declarations of accused on the issue of insanity.

Evidence — *unanswered letter — new transaction.* An unanswered letter written by the holder of a note to the indorser, stating that holder would look to indorser for payment, is held not admissible in an action on renewal notes executed after receipt of the letter, in Kumin v. Fine, 229 Mass. 75, 118 N. E. 187, which is accompanied in 8 A.L.R. 1161, by a note on the admissibility, in favor of the writer, of an unanswered letter not a part of the mutual correspondence.

Explosion — *"res ipsa loquitur" — wrecking of building to injury of employee.* The maxim, "res ipsa loquitur," is held applicable, in the Arkansas case of Chiles v. Ft. Smith Commission Co. 216 S. W. 11, to the wrecking of a building to the injury of an employee of a tenant, by an explosion from unknown cause, where all of the fixtures and appliances containing the gas and ammonia in the building, which alone might have caused the explosion, are exclusively under the control of the owner of the property, against whom the action is brought.

The applicability of "res ipsa loquitur" to an explosion of gases or chemicals is discussed in the note which follows this case in 8 A.L.R. 493.

Fence — *right to remove hedge.* One upon whose property is located a hedge which forms a division fence between himself and his neighbor is held entitled to remove it, and put another fence in its place, against the protest of the neighbor, in the Kentucky case of White v. Thompson, 219 S. W. 434, annotated in 8 A.L.R. 1641, on the right to remove or rebuild a fence separating one's land from his neighbor's land.

Homestead — *enlarged — liability for debts.* The enlarged Homestead Act of 1909 is to be read in connection with the original act, and therefore the enlarged homestead is held not liable for debts of the homesteader, contracted before issuance of patent, in the Montana case of First State Bank v. Bottineau County Bank, 185 Pac. 162, annotated in 8 A.L.R. 631.

Homicide — *justifiable — prevention of elopement.* That a man and his son have the right to stop the attempted carrying out of a conspiracy to steal his infant daughter, for the purpose of marrying her to a man objectionable to him, is held in the South Carolina case of State v. Douglas, 101 S. E. 648, annotated in 8 A.L.R. 656.

Husband and wife — *entireties — personal property.* That a man and wife may hold personal property by entireties is held in the Vermont case of George v. Dutton, 108 Atl. 515, annotated in 8 A.L.R. 1014.

Husband and wife — *refusal to support — justification.* Refusal of a wife to perform any duties for her husband, as such, is held to be a justification for his refusal to support her, in the Texas case of Mercardo v. State, — Tex. Crim. Rep. —, 218 S. W. 491, accompanied in 8 A.L.R. 1312,

by supplementary annotation on the criminal responsibility of a husband for the abandonment or nonsupport of a wife, who refuses to live with him.

Insurance — *lapse of policy — effect.* That no recovery for a fire, occurring while a premium is unpaid, can be had under a policy providing for its lapse until the premium is paid, is held in Continental Ins. Co. v. Stratton, 185 Ky. 523, 215 S. W. 416, which is followed in 8 A.L.R. 391, by a note on the effect upon a provision suspending insurance during default in payment of premiums or assessments, of the failure of the insurer to declare a suspension before loss.

Larceny — *obtaining goods in name of another.* One telephoning an order to a store for goods in the name of a credit customer, and one who receives the goods with knowledge that the purpose is to get them without paying for them, are held equally guilty of larceny by false pretenses, in the Washington case of State v. Peterson, 186 Pac. 264, annotated in 8 A.L.R. 652, on conversation by telephone as false pretenses.

Master and servant — *authority of janitor — ejecting child from sidewalk.* The janitor of an apartment building is held, in Muller v. Hillenbrand, 227 N. Y. 448, 125 N. E. 808, which is followed in 8 A.L.R. 1455, by a note on the liability of an employer for the acts of a janitor, to have no implied authority to eject from the sidewalk in front thereof, children using the walk for roller skating, which will render the owner of the property liable for injury caused by his attempt to exercise such authority.

Master and servant — *disobedience of orders — effect.* That a master may be liable for the act of his superintendent in using excessive force in compelling obedience to working rules, although he was expressly directed not to use such force, if the use of some

force was necessary, is held in the New Hampshire case of Richard v. Amoskeag Mfg. Co. 109 Atl. 88, annotated in 8 A.L.R. 1426, on master's liability for injury of one servant by another in enforcing discipline.

Monopoly — *size of corporation — unexerted powers.* The mere size of a corporation, or the existence of unexerted power unlawfully to restrain competition, is held not of itself to make such a corporation a violator of the Sherman Anti-trust Act, in United States v. United States Steel Corp. 251 U. S. 417, 64 L. ed. 343, 40 Sup. Ct. Rep. 293, annotated in 8 A.L.R. 1121.

Mortgage — *foreclosure — sale at less than value — effect.* A sale under mortgage foreclosure is held not to be invalidated by mere absence of bidders other than a representative of the mortgagee, nor by the fact that the property brought substantially less than its value, in the Massachusetts case of Manning v. Liberty Trust Co. 125 N. E. 691, which is followed in 8 A.L.R. 999, by a note on sale under a power in a mortgage or trust deed as affected by inadequacy of price.

Municipal corporation — *liability for act of fire department.* A municipal corporation is held liable for injury to a pedestrian by the negligent driving of fire apparatus by a member of its fire department, in the Ohio case of Fowler v. Cleveland, 126 N. E. 72, annotated in 9 A.L.R. 131, on the question whether a fire department pertains to the governmental or to the proprietary branch of the municipality.

Physician — *necessity of knowledge of remedies — liability for homicide.* A person assuming to treat disease is bound to know the nature of the remedies he prescribes and the treatment he adopts, and he is held to be responsible criminally for a death resulting to the patient from gross ignorance and culpable negligence in the selection of remedies and the ap-

plication of the treatment, in the Oklahoma case of Barrow v. State, 188 Pac. 351, annotated in 9 A.L.R. 207, on homicide resulting from the improper treatment of disease.

Principal and agent — *payment to agent — effect.* When a principal has clothed his agent with indicia of authority to receive payment for goods sold, as by intrusting him with possession of the goods, the purchaser is held warranted in paying the price to the agent at time of sale, in the Washington case of Petersen v. Pacific American Fisheries, 183 Pac. 79, which is followed in 8 A.L.R. 198, by a note on the authority of an agent to receive payment for commodities which he is authorized to sell or for which he is to find market.

Railroads — *relation to Director General.* The relations between the railroad and the government, after the roads had been placed under the control of the Director General, are stated to have been either technically those of landlord and tenant, or analogous thereto, in the Michigan case of Peacock v. Detroit, G. H. & M. R. Co. 175 N. W. 580, accompanied in 8 A.L.R. 964, by a note on Federal control of public utilities, which is supplementary to the annotation in 4 A.L.R. 1669.

Religious societies — *power to convey property.* That the majority present at a church meeting cannot convey church property to another religious denomination against the protest of the minority, although no express trust was established by those donating the funds with which the property was purchased, is held in the Colorado case of Baptist City Mission Soc. v. People's Tabernacle Cong. Church, 174 Pac. 1118, to which is appended in 8 A.L.R. 102, a note on determination by the civil courts of property rights between contending factions of an independent or congregational church.

Religious societies — *right of majority to control property.* When a church, strictly congregational or independent in its organization, is governed solely within itself, either by a majority of its membership or by such other local organism as it may have instituted for the purpose of ecclesiastical government, and holds property either by way of purchase or donation, with no other specific trust attached to it than that it is for the use of that church, it is held in the Nebraska case of Kenesaw Free Baptist Church v. Lattimer, 174 N. W. 296, 8 A.L.R. 98, that the numerical majority of the membership of the church may ordinarily control the right to the use and title of its property.

Sale — *effect of custom.* That previous dealings, or a well-established usage or custom of a trade, cannot inject into a sales contract an obligation on the part of the seller to deliver the goods sold, upon being tendered a draft drawn by the buyer's agent upon the buyer, is held in the Minnesota case of Stein v. Schapiro, 176 N. W. 54, which is followed in 8 A.L.R. 1264, by a note on custom, or previous dealing, as imposing an obligation upon a party to a contract, to accept something else in lieu of cash.

Street railway — *incompetent operatives — injury to person on track — liability.* The mere fact that an electric railway company fails to provide competent and experienced operatives for its car is held not to render it liable for injury to a person asleep on its track, in the Connecticut case of Carlson v. Connecticut Co. 108 Atl. 531, which is followed in 8 A.L.R. 569, by a note on the employment of an incompetent, inexperienced, or negligent employee as an independent ground of negligence toward one other than an employee.

Tax — *inheritance — foreign-held bonds.* Unregistered corporate bonds held by a nonresident at his domicil are held not subject to inheritance tax

November 22, 1920.

The Lawyers Cooperative Publishing Co.,

Rochester, New York.

Gentlemen:

Your telegram and letter of November 20th, as to citations of Norwalk v. Podmore came duly to hand. We are much obliged for your promptness. May I say something further? We had found the case of Sandpoint v Doyle, 14 Idaho, 749. This was the only case which we could find on the subject. You gave us the citations of this case, and among others, Norwalk v. Podmore, 86 Connecticut. This was exactly in point and with the Sandpoint case was the only case we have been able to find on an important feature in an important case that we have.

Yours respt'y,

WHITE, JOHNSON, CANNON & SPIETH.

By John L White

JGW-H

in the state where the corporation is located, in the Colorado case of Walker v. People, 171 Pac. 747, annotated in 8 A.L.R. 855.

War — *Soldiers' Civil Relief Act — foreclosure of mortgage.* Foreclosure of a mortgage, it is held in Morse v. Stober, 233 Mass. 223, 123 N. E. 780, should not be made without order of court since the passage of the Soldiers' & Sailors' Civil Relief Act by Congress, since otherwise the mortgagee cannot be sure that he is not acting in violation of the statute, because some interested party may be in the military service of the United States.

The validity and construction of the Soldiers' & Sailors' Civil Relief Act are treated in the note which accompanies this case in 9 A.L.R. 78.

Wills — *guardianship — testamentary capacity.* That one is under guardianship is held not to destroy his right to make a will, if he has sufficient mental capacity to do so, in the Oregon case of Collins v. Long, 186 Pac. 1038, annotated in 8 A.L.R. 1370.

Wills — *witness — official certifying to signatures.* A justice of the peace certifying upon a will the verity of the signatures thereto is held to become a witness to the will, in the New Hampshire case of Tilton v. Daniels, 109 Atl. 145, annotated in 8 A.L.R. 1073, on character as witness of one who signed will for another purpose.

Witness — *excuse for refusing to comply with subpœna duces tecum.* That a bank cannot refuse to produce its books in court in response to a subpœna duces tecum, because it would be inconvenient for it to do so and compliance would entail great expense upon it, is held in the Washington case of State ex rel. Spokane & E. Trust Co. v. Superior Ct. 187 Pac. 358, annotated in 9 A.L.R. 157, on the subject of inconvenience or expense as an excuse for disobeying a subpœna duces tecum.

Workmen's compensation — *legal liability for support — decree for separate maintenance.* A man against whom a decree has been entered for separate maintenance of his wife is held to be legally liable for her support, within the meaning of a Workmen's Compensation Act raising a conclusive presumption of entire dependence for support in favor of the wife, for whose support the husband is legally liable, in the California case of Continental Casualty Co. v. Pillsbury, 184 Pac. 658, annotated in 8 A.L.R. 1110, on the effect of divorce on the right of a spouse or child to compensation.

Workmen's compensation — *loss of eye—90 per cent destruction of sight.* Destruction of 90 per cent of the sight of an eye is held not to effect a total loss, within the meaning of that term in a Workmen's Compensation Act, awarding compensation for total loss of an eye in addition to the award for disability, in the Rhode Island case of Keyworth v. Atlantic Mills, 108 Atl. 81, which is followed in 8 A.L.R. 1322, by a note on compensation for loss or impairment of eyesight within the Workmen's Compensation Act.

Workmen's compensation — *making delivery — dog bite — injury arising out of employment.* Injury by dog bite while one employed to deliver packages is making a delayed delivery in the morning, while on his way between his home and the place where the vehicle utilized by him in his work is stored, to procure it for his day's work, is held to arise out of the employment within the meaning of the Workmen's Compensation Act, in the Utah case of Chandler v. Industrial Commission, 184 Pac. 1020, annotated in 8 A.L.R. 930, on the question of injury while making delivery, as arising out of and in the course of employment.

"Service Through Annotation"

"These things seem incredible in an age when transient hotel accommodations include a bathroom, but sanitation is a recent development. A southern Ohio lawyer went to Columbus a few years ago, and when he registered at the hotel the clerk asked him if he wanted a room with bath. The guest thoughtfully rubbed the stubble on his chin, and replied: 'No; I'll be home by Saturday.' A similar story is told of a newly rich lady who was showing a friend of her days of poverty the very elaborate bathroom in her new home. It was a sizzling hot August night. 'La! how you must enjoy that tub!' she explaimed. 'Indeed I do,' was the response; 'I can hardly wait for Saturday night to come.'" To these may be added the incident of the man who was persuaded to order a bathtub during the heat of August, but refused to accept a delayed October shipment on the ground that the article was now of no use to him, "since the bathing season was over."

It is stated that the senatorial baths at Washington, which of recent years have been undeveloped and deserted, are again to be put to use. Perhaps our wearers of the toga will lead the way in a revival of the best classical traditions.

Legislation making bathing compulsory has not been suggested, probably because Americans have voluntarily shown themselves to be reasonably civilized in this regard. The thousands who throng the bathing beaches are evidently not in sympathy with the man who thanked God he had never insulted his skin by putting cold water on it; still less would they approve of the unkempt vagrant, who misunderstood his sentence of thirty days to be for "fragrancy."

Mortgaged Tomcat

AN UNUSUAL chattel mortgage is said to be on file at Stockton, Missouri. It specifies, among the articles covered by it, "one black tomcat with white feet, named Tom." It is possible that Thomas ranked as a family heirloom, and he may have been regarded as the most valuable part of the security. At any event, a "black tomcat" is a novel variation of the chattel mortgage color scheme, which shades up from the bay mule to the gray mare and the old white cow.

"Service Through Annotation"

New Book Announcements

WHITE, NEGLIGENCE OF MUNICIPAL CORPORATIONS, 1 volume .. $10.00

HOLMES, INCOME TAX SUPPLEMENT, 1 volume 5.00

BLACK, INCOME TAX SUPPLEMENT, 1 volume 3.00

SCHOULER, MARRIAGE, DIVORCE, SEPARATION, AND DOMESTIC RELATIONS, 3 volumes 30.00

"CONTRACTS IN ENGINEERING." By James I. Tucker (McGraw-Hill Book Co., Inc. 239 West 39th St., New York). 4.00

The fundamental rules of law which are most important in engineering are discussed in this work. It aims to state those guiding principles which will enable the engineer to co-operate efficiently with lawyers, and to appreciate more perfectly the need of their assistance.

The practical workability of the more modern forms of engineering contracts were tested, upon a vast scale, by the contracts between the government and private contractors on war work. Standard contract practice was advanced thereby and important precedents were established. The author covers fully the rapid developments in this field in the last few years.

"THE NEW WORLD ORDER." By Frederick C. Hicks. (Doubleday, Page & Co., Garden City, New York). 3.00

This work of nearly five hundred pages is a careful analysis of the Covenant of the League of Nations, which is considered in its relation to international organization, international law, and international co-operation.

The author is the law librarian of Columbia University. The references made throughout the book and the bibliography appended to it disclose the wealth of material which the writer had at his disposal.

The purpose of the book is not controversial. It does not attempt to defend a thesis or to support a policy with regard to any particular state. It presents the facts concerning the League Covenant and illumines them by the use of the comparative method whenever precedents could be found.

Whatever the relation of the United States may be to the League, the provisions of the latter, unless they fail absolutely, will affect our foreign relations.

Mr. Hicks's work is of enduring value, and will be welcomed by those whose duties or interest lead to a careful study of the subject treated.

"SAFEGUARDS OF LIBERTY, OR LIBERTY PROTECTED BY LAWS." By W. B. Swaney, of the Chattanooga Bar. (Oxford University Press, New York) .....net $2.25

The great American charters of liberty are discussed in this volume, with a view of presenting the origin, growth, and progress of our civil and religious freedom. The author makes a careful study of the Declaration of Independence, and supplements this with a review of Mr. Jefferson's contributions towards erecting and putting into actual operation his principles of government in the national government, and, indirectly, his vast contributions towards the liberties of mankind.

In the foreword, by Hon. W. G. McAdoo, it is said: "It is of the utmost importance that the people of the world should understand more than ever before the true meaning of democracy, and of the principles which should guide and control democratic governments. . . . It is a time to drink deeply from the fountains of wisdom and knowledge established by our forefathers, and those who preceded them in the struggle for religious and civil liberty."

Mr. Swaney's work is worthy of perusal by every lover of genuine democracy.

Continued from page six

self on the ground that if an ass fall into a pit it is lawful to lift him out on the Sabbath day.

To what extent it is necessary or proper for an attorney to permit professional cares or anxieties to trespass upon the day of rest may safely be left to the individual practitioner, to be determined by him in the light of the law and in the forum of his conscience.

"Service Through Annotation"

Travels Out of the Record

She Indorsed It. A blithe and sweet young thing walked into a bank the other day and addressed the paying teller.

"I want to have this check cashed."

"Yes, madam," replied the teller; "please indorse it."

"Why, my husband sent it to me. He is away on business."

"Yes, madam, but just indorse it. Sign it on the back, please, and your husband will know we paid it to you."

She went to the desk, and in a few minutes returned to the window with the check indorsed: "Your loving wife, Edith."

—San Francisco Chronicle.

A Deadlocking Statute. One rather suspects an Irish hand in the making of some of the Kansas laws—as, for instance, the one which states, if our information is correct, that when two trains meet at a crossing each is to stop, whistle, and wait until the other gets by. —Boston Transcript.

A Literary Find. A new "bull" by the famous Sir Boyle Roche has been discovered in a manuscript letter dated 1795. Sir Boyle is quoted as saying: "Mr. Speaker, an honorable gentleman who sits behind me is perpetually laughing in my face. I beg to move that, before he laughs at me again, he will be pleased to tell me what he is laughing at."

Defining the Loser. A young university graduate, just admitted to the bar, was taken into partnership with an old lawyer who had been highly successful in the practice of his profession, but whose age was fast telling on him. On the first day of the new partnership, the old lawyer gave the junior partner quite a lengthy discourse on the ethics, customs, etc., of the profession.

"And remember, I never lost a case," he concluded impressively.

Imagine, then, the junior partner's surprise when, on the very next day, a telegram came from the supreme court of the state reversing a decision which had been favorable to the senior partner in the lower courts. The junior partner hesitated somewhat to inquire into the matter, but his youth was irrepressible.

"What's the matter?" he demanded of the old lawyer. "I thought you told me you never lost a case."

"I haven't lost a case," calmly denied the old man. "I was paid a retainer in advance. I never lose a case, but sometimes my clients do!"

—N. Y. Evening Post.

The Tie that Binds. Private George Washington Johnson, late of the "Colored Devils" and now in "cits," breezed down Kearny street into the arms of an old friend.

"Lawdy! Lawdy! Ef it ain't George Washington Johnson!" exclaimed the friend.

"Yeah, it's me, all right," said George, disconsolately.

"Got youh freedom, George?" asked the friend.

"Who, me? Naw, I just got mustered out in time to get married. No, suh, I ain't got mah freedom a-tall."

—San Francisco Chronicle.

Right vs. Might. "Why did you turn out for that truck? According to the traffic rules, you had the right of way."

"Yes," answered Mr. Chuggins, patiently. "But the truck had the right of weight." —Washington Star.

Not Masculinized. "Woman may take up strange occupations, but she never changes her ways."

"What now?"

"I notice that policewoman includes a powder rag in her equipment."

—Kansas City Journal.

A Purchasable Commodity. A Belgian woman, who lost her husband in a railroad accident, received from the company $2,000 by way of compensation. Shortly afterwards she read of a traveler getting twice as much for the loss of a leg. She went to the company and protested that the difference was unfair.

"Madam," said the official, "the two awards are perfectly fair. Four thousand dollars won't provide the man with a new leg, but for $2,000 you can easily get a new husband."

—Boston Transcript.

Amende Honorable. A lawyer was asked by the court to apologize for a seeming disrespect to the bench. The lawyer said with great dignity: "I do apologize, sir. Your Honor is right, and I am wrong, as your Honor generally is."

—Ladies' Home Journal.

No Doubt of It. An Indianapolis lawyer, who handles many divorce cases in the county courts, was approached the other day by a man who contemplated bringing divorce proceedings against his wife.

"I want to find out if I have grounds for a divorce," he informed the attorney, on entering his office.

"Are you married?" the lawyer asked.

"Why, yes, of course," responded the client.

"Then you have grounds," the attorney said.

—Indianapolis News.

Resemblance.

"A rosebud and a note are quite
A bit alike," said Drew,
"For both are, if I get it right,
Matured by falling dew."

—Boston Transcript.